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# CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
## PRINCIPAL BENCH, WEST BLOCK No.2, R.K.PURAM, NEW DELHI - 110066
## SINGLE MEMBER APPEAL BRANCH

Appeal No. **E/1058/2008 – SM[BR] & E / 836 / 2008 –SM[BR]** Date **16/08/2011**

Assistant Registrar
C.E.S.T.A.T, New Delhi

To :
**U.P.STATE SUGAR & CANE DEVELOPMENT**
CORPORATION LTD.
PIPRAICH, DISTT.GORAKHPUR
273152

**U.P.STATE SUGAR & CANE DEVELOPMENT CORPORATION LTD.** Appellant

Vs

**C.C.E ALLAHABAD** Respondent

I am directed to transmit herewith a certified copy of **Final order No.463 -464/2011-SM[BR]** dated 3.8.2011 passed by the Tribunal under **Section 35-C(1)of Central Excises Act, 1944**

Assistant Registrar
(SM Appeal Branch)

**Copy to :**

1. Respondent
**C.C.E ALLAHABAD**
38,M.G.MARG, CIVIL LINES,
ALLAHABAD

2. Adv. / Consult
**MR.BIPIN GARG**
B-1/1289,A-VASANT KUNJ, NEW DELHI

3. C.D.R
4. Bar association. CESTAT. New Delhi
5. Director Publications. Customs. Excise. I.P. Estate. New
6. M/s Centax Publictions Pvt Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New Delhi -
7. Company Law Institute of India Pvt Ltd.,No.2(Old No. 36), Vaithyaram Street, T. Nagar,Chennai -17
8. Taxmann Allied Service Pvt Ltd.. 59/32. New Rohtak Road. New Delhi -
9. Easy Service Tax Online Dot Com Pvt.Ltd.407A,Iscon Mall,Above Star India Bazar,Satellite Road, Ahmedabad-15
10. LAWCRUX Advisors Pvt Ltd. LAW House.1-8.Sector - 10. Faridabad 121003 (Haryana)
11. TaxIndiaOnline.com Pvt Ltd., Unit No.1, 2nd Floor,Vasant Arcade,Nelson Mandela Road, Vasant Kunj, New Delhi - 110070
12. Office Copy
13. Guard file

Assistant Registrar
(SM Appeal Branch)

**[2] M/S U.P. STATE SUGAR & CANE DEVT. CORPN. LTD.**
PIPRAICH. GORAKHPUR

IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL,
WEST BLOCK NO.II, R.K. PURAM, NEW DELHI-110066.
BENCH-SM

**Excise Appeal No. E/1058/08-SM**

[Arising out of Order-in-Appeal No.21-CE/ALLD/2008 dated 29.01.2008 passed by the Commissioner (Appeals), Allahabad].

M/s. U.P. State Sugar & Cane
Development Corpn Ltd. ...Appellant

Vs.

CCE, Allahabad ... Respondent

**Excise Appeal No. E/836/08-SM**

[Arising out of Order-in-Appeal No.21-CE/ALLD/2008 dated 29.01.2008 passed by the Commissioner (Appeals), Allahabad].

CCE, Allahabad ...Appellant

Vs.

M/s. U.P. State Sugar & Cane
Development Corpn Ltd. ... Respondent

Present for the Assessee :Shri Bipin Garg, Advocate
Present for the Department:Ms. Renu Jagdav, S.D.R.

**Coram: HON'BLE MR. D.N. PANDA, JUDICIAL MEMBER**

**Date of Hearing/Decision:03.08.2011**

Final **ORDER NO.** 463-464/2011 SM (BR) **DATED:**________

**PER: D.N.PANDA**

The assessee has come in appeal ~~to~~ against the extent of loss of molasses not permitted by the appellate authority to be written off. While the

Revenue's appeal registered as Appeal No.836/08 is against grant of partial relief to the extent of 2% of loses.

2. Ld. Counsel supports the order of Appellate Authority on the ground that he has properly considered the matter to grant loss to the extent of 2% as is usual practice following board circular. He also says that the authority found that there was no clandestine removal of molasses. Therefore, the appellate authority should have allowed total loss incurred without restricting the remission to the extent of 2%.

3. Ld. DR argues that appellate authority has not correctly judged the matter when the adjudication held that the loss that has been incurred is beyond permissible limit and for no good reason.

4. Heard both sides and perused the record. Examination of the appellate order suggests that the appellate authority below has applied his mind in para 6 to 9 of the order as he has recorded at page 4. There is nothing legal infirmity noticeable in that order. Consequently, assessees appeal is dismissed. So also when there is no legal infirmity found, Revenue's appeal is also dismissed.

[Dictated & Pronounced in the open Court].

**(D.N.PANDA)**
**JUDICIAL MEMBER**

Anita